

on the Coast Guard Congressional Fellowship Program, or to implement the proposed regulations of the Office of Personnel Management to add sections 300.311 through 300.316 to part 300 of title 5 of the Code of Federal Regulations, published in the Federal Register, volume 68, number 174, on September 9, 2003 (relating to the detail of executive branch employees to the legislative branch).

SEC. 736. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the Committees on Appropriations, except that the Federal Law Enforcement Training Center is authorized to obtain the temporary use of additional facilities by lease, contract, or other agreement for training which cannot be accommodated in existing Center facilities.

SEC. 737. (a) No funds shall be available for transfers or reimbursements to the E-Government Initiatives sponsored by the Office of Management and Budget prior to 15 days following submission of a report to the Committees on Appropriations by the Director of the Office of Management and Budget and receipt of approval to transfer funds by the House and Senate Committees on Appropriations.

(b) The report in (a) shall detail—

(1) the amount proposed for transfer for any department and agency by program office, bureau, or activity, as appropriate;

(2) the specific use of funds;

(3) the relevance of that use to that department or agency, and each bureau or office within, which is contributing funds; and

(4) a description of any such activities for which funds were appropriated that will not be implemented or partially implemented by the department or agency as a result of the transfer.

SEC. 738. (a) REQUIREMENT FOR PUBLIC-PRIVATE COMPETITION.—

(1) Notwithstanding any other provision of law, none of the funds appropriated by this or any other Act shall be available to convert to contractor performance an activity or function of an executive agency that, on or after the date of enactment of this Act, is performed by more than 10 Federal employees unless—

(A) the conversion is based on the result of a public-private competition that includes a most efficient and cost effective organization plan developed by such activity or function;

(B) the Competitive Sourcing Official determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the executive agency by an amount that equals or exceeds the lesser of—

(i) 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees; or

(ii) \$10,000,000; and

(C) the contractor does not receive an advantage for a proposal that would reduce costs for the Federal Government by—

(i) not making an employer-sponsored health insurance plan available to the workers who are to be employed in the performance of that activity or function under the contract;

(ii) offering to such workers an employer-sponsored health benefits plan that requires the employer to contribute less towards the premium or subscription share than the amount that is paid by the Federal Government for health benefits for civilian employ-

ees under chapter 89 of title 5, United States Code; or

(iii) offering to such workers a retirement benefit that in any year costs less than the annual retirement cost factor applicable to Federal employees under chapter 84 of title 5, United States Code.

(2) This paragraph shall not apply to—

(A) the Department of Defense;

(B) section 44920 of title 49, United States Code;

(C) a commercial or industrial type function that—

(i) is included on the procurement list established pursuant to section 2 of the Javits-Wagner-O'Day Act (41 U.S.C. 47); or

(ii) is planned to be converted to performance by a qualified nonprofit agency for the blind or by a qualified nonprofit agency for other severely handicapped individuals in accordance with that Act;

(D) depot contracts or contracts for depot maintenance as provided in sections 2469 and 2474 of title 10, United States Code; or

(E) activities that are the subject of an on-going competition that was publicly announced prior to the date of enactment of this Act.

(b) USE OF PUBLIC-PRIVATE COMPETITION.—Nothing in Office of Management and Budget Circular A-76 shall prevent the head of an executive agency from conducting a public-private competition to evaluate the benefits of converting work from contract performance to performance by Federal employees in appropriate instances. The Circular shall provide procedures and policies for these competitions that are similar to those applied to competitions that may result in the conversion of work from performance by Federal employees to performance by a contractor.

(c) BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76.—

(1) ELIGIBILITY TO PROTEST.—

(A) Section 3551(2) of title 31, United States Code, is amended to read as follows:

“(2) The term ‘interested party’—

“(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

“(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under OMB Circular A-76, includes—

“(i) any official who submitted the agency tender in such competition; and

“(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.”.

(B)(i) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

“§ 3557. Expedited action in protests for public-private competitions.

“For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.”.

(ii) The chapter analysis at the beginning of such chapter is amended by inserting after

the item relating to section 3556 the following new item:

“3557. Expedited action in protests for public-private competitions.”.

(2) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

“(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A-76, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.”.

(3) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by paragraph (1)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by paragraph (2)), shall apply to—

(A) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A-76 on or after January 1, 2004; and

(B) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A-76, or a decision to convert a function performed by Federal employees to private sector performance without a competition under Office of Management and Budget Circular A-76, on or after the date of the enactment of this Act.

(d) LIMITATION.—(1) None of the funds available in this Act may be used—

(A) by the Office of Management and Budget to direct or require another agency to take an action specified in paragraph (2); or

(B) by an agency to take an action specified in paragraph (2) as a result of direction or requirement from the Office of Management and Budget.

(2) An action specified in this paragraph is the preparation for, undertaking, continuation of, or completion of a public-private competition or direct conversion under Office of Management and Budget Circular A-76 or any other administrative regulation, directive, or policy.

(e) APPLICABILITY.—This section shall apply with respect to fiscal year 2008 and each succeeding fiscal year.

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AMENDMENT NO. 15 OFFERED BY MR. PRICE OF GEORGIA

Mr. PRICE of Georgia. Mr. Chairman, I offer an amendment as the designee for the gentleman from Texas (Mr. SESSIONS).

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 15 offered by Mr. PRICE of Georgia:

Strike section 738 (page 117, line 9, through page 124, line 13) and redesignate the succeeding provisions accordingly.

The Acting CHAIRMAN. Pursuant to the order of the House of today, the gentleman from Georgia (Mr. PRICE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Georgia.